Ronald P. Holden, et ux

Petitioners

\* DEPUTY ZONING COMMISSIONER

\* OF BALTIMORE COUNTY \* Case No. 93-440-A

. . . . . . . . . . . FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance filed by the owners of the subject property, Ronald P. and A. Ruth Holden. The Petitioners request relief from Section 1B02.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 5.5 feet in lieu of the minimum required 10 feet and a front yard setback of 23.2 feet in lieu of the minimum required 25 feet for an existing dwelling in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition was Ruth Holden, property owner. There were no Protestants.

Testimony indicated that the subject property, known as 2621-A Proctor Lane, consists of .228 acres, more or less, zoned D.R. 5.5 and is improved with a two-story single family dwelling. Said property was part of a minor subdivision of 2621 Proctor Lane, which was approved in approximately September, 1990. The property at 2621 Proctor Lane was the subject of prior zoning Case No. 93-338-A in which the owners requested a variance to side yard setback requirements for an existing dwelling as a result of a zoning violation notice they received. Testimony in that case revealed that when 2621 Proctor Lane was subdivided into three lots, the three lots were proposed for development with 40-foot wide dwellings. Thomas Phelps, a Registered Property Line Surveyor who appeared and testified in that

case, stated that he staked off the area on each lot where the dwellings were to be constructed in accordance with B.C.Z.R. requirements. However, in Case No. 93-338-A, the builder constructed the dwelling outside the building envelope. Testimony in the instant case was that the builder constructed a larger home than that originally planned and that the house was constructed with a two-car garage instead of a one-car garage. The Petitioners were not aware of the problem until the adjoining property owners filed for a variance. The Petitioners then filed the instant Petition in order to bring their property into compliance with the zoning regulations. It should be noted that the subject dwelling has existed on the property for over two years.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

- 2-

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

Baltimore County this  $14^{1/4}$  day of July, 1993 that the Petition for Variance requesting relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 5.5 feet in lieu of the minimum required 10 feet and a front yard setback of 23.2 feet in lieu of the minimum required 25 feet for an existing dwelling in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for

1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

- 3**-**

TIMOTHY M. KOTROCO Deputy Zoning Commissioner for Baltimore County

TMK:bjs

SIVED FOR FILM

Petition for Variance to the Zoning Commissioner of Baltimore County for the property located at 2621A Proctor In

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1802.3.c.1 to change the side yard setback from 10' to 5.5' and the front setback from 25' to 23.2'.

which is presently zoned DR5.5

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) Then the contractor built the house he inlarged the width and set it scewed on the lot.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

			I/We do solemnly declare and affirm legal owner(s) of the property which is			are the
Contract Purchaser/Lessee			Legal Owner(s)			
(Type or Print Name)			RONALD P. HOL	DEN		_
(Type or Print Name)			(Type or Point Name)	2 /1 /	10%	
Signature		<del></del> _	X X OY O V C/ / C Signature	WY XI	H(/K)	
Address			A. RUTH HOLDE	N		_
			x a Kuth	Holden		_
City	State	Zipcode	Signature			_
Attorney for Petitioner			_	Н 882		
			2621A Proctor L	nW 665		_
(Type or Print Name)			Address		Phone No	
			Balt.	Md.	21234	
Signature		<del></del>	City Name, Address and phone number of	State f representative to be	Zipco contacted.	<del>do</del> 4
			Thomas E. Phe	lps		<i>"</i>
Address	Phone No		945 Barron Av		) 574 6	744
City	State	Zipcode	Address		Phone No.	_
•			0.5	FICE USE ONLY	- 4	_
		, administration			100	

Lot 3 Holden Property Proctor Lane 9th Elect District Baltimore County, Md.

Beginning at a point in the southwesterly line of the original tract acquired by Ronald P Holden, Et Al, by deed recorded among the land records of Baltimore County, Maryland in Liber 8654 at folio 8833, said point being South 46 25' 53" West 29.14 feet from the centerline of Proctor Lane, as now surveyed, thence departing said point of beginning and running with the said tract line as follows, vizz

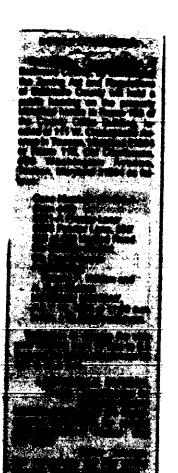
1) South 74 29' 41" East 68.14 feet to a point, thence with two new lines of division as follows, viz; 2) South 45 48' 51" West 175.42 feet. and

3) North 60 57' 87" West 63.93 feet to a point in the original southwesterly line of the tract, thence with said tract line the following, viz; 4) North 46 25' 53" East 159.28 feet to the point and place of beginning. Containing 9,964 square feet, more or less.

Being a portion of the property acquired by Ronald P. Holden, Et Al, by a deed recorded among the land records of Baltimore County, Maryland in Liber 8654 at Folio 9033, also said lot is shown on a plat of subdivision attached hereto and made a part hereof.

CERTIFICATE OF POSTING ZONNIS DEPARTMENT OF BALTIMORE COUNTY 93 - 440-4

Posted for: Verience	Date of Posting 6/25/93
Posted for: Variance	
Petitioner: NONE LE M. Kuth	the 1 do-y EDO's w/old Hordfor & Rd
Location of property: \( \frac{1}{6} \frac{1}{5} \frac	clar famo, 200 suppleston for a Rd
Location of Signe Facing Too Subog	exports John zons
Remarks: Posted by	Date of return: 4/25/92
Posted by Although	Date of return:



CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of. weeks, the first publication appearing on \_\_\_\_

THE JEFFERSONIAN.

Baltimore County Government Zoning Commissioner Office of Planning and Zoning



July 14, 1993

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386

Mr. & Mrs. Ronald P. Holden 2621-A Proctor Lane Baltimore, Maryland 21234

RE: PETITION FOR VARIANCE SE/S Proctor Lane, 800' SW of Old Harford Road (2621-A Proctor Lane) 9th Election District - 6th Councilmanic District Ronald P. Holden, et ux - Petitioners Case No. 93-440-A

Dear Mr. & Mrs. Holden:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

Salar Ser asimo TIMOTHY M. KOTROCO

Deputy Zoning Commissioner for Baltimore County

cc: Mr. Thomas E. Phelos 945 Barron Avenue, Baltimore, Md. 21221

People's Counsel

**Cashler Validation** 

Development Management 111 West Chesepeako Avenue

Account: R-001-6150

03A03#0136M1CHRC

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Towson, MD 2120+

111 West Chesapeake Avenue

(410) 887-3353

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-440-A (Item 448) 2621-A Proctor Lane SE/S Proctor Lame, 800° SW of Old Harford Road 9th Election District - 6th Councilmanic Petitioner(s): Ronald P. Holden and A. Ruth Holden HEARING: MONDAY, JULY 12, 1993 at 11:00 a.m. in Rm. 118, 01d Courthouse.

Variance to change the side yard sotback from 10 feet to 5.5 feet and the front setback from 25 feet to 23.2 feet.

cc: Ronald Holder, et ux Thomas E. Phelps

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE. (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

**Baltimore** County Government Office of Zoning Administration and Development Management

111 West Chesapeake Avenue Towson, MD 21204

July 2, 1993

Mr & Mrs. Ronald P. Holden 2621A Proctor Lane Baltimore, MD 21234

> RE: Item No. 448, Case No. 93-440-A Petitioner: Ronald P. Holden, et ux Petition for Variance

(410) 887-3353

Dear Mr. and Mrs. Holden:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on June 11, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

State Highway Administration

O. James Lighthizer Hal Kassoff

6-17-95

Dear Ms. Kehring:

Ms. Helene Kehring

County Office Building

Room 109

Zoning Administration and

Development Management

111 W. Chesapeake Avenue

Towson, Maryland 21204

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

for John Contestabile, Chief **Engineering Access Permits** 

My telephone number is \_\_\_\_

Teletypewriter for Impaired Hearing or Speech 383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free 707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO. Zoning Advisory Committee Date June 28, 1993

FROM Captain Jerry Pfeifer- Fire Dept.

SUBJECT June 28, 1993 Meeting

Revised #138- Building shall be in compliance with the 1991 Life Safety Code. - No comments

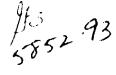
- Standpipes in accordance with NFPA 303 are required where a hose lay from fire apparatus to the end of a pier exceeds 150'.

- No comments #443 - No comments #444

- Building shall comply with the 1991 Life Safety Code and shall be equipped with smoke detectors in accordance with State Law.

#446 - No comments - No comments No comments

Nocomments



: BEFORE THE ZONING COMMISSIONER Old Harford Rd. (2621-A Proctor: OF BALTIMORE COUNTY

Lane), 9th Election District, : Case No. 93-440-A 6th Councilmanic District

RONALD P. HOLDEN AND A. RUCH HOLDEN, Petitioners

SE/S Proctor Lane, 800' SW of

RE: PETITION FOR VARIANCE

::::: ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the abovecaptioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

People's Counsel for Baltimore County Carole S. Demilio

Carole S. Demilio Deputy People's Counsel Room 47, Courthouse 400 Washington Avenue Towson, Maryland 21204 (410) 887-2188

I HEREBY CERTIFY that on this 29th day of June, 1993, a copy of the foregoing Entry of Appearance was mailed to Ronald P. Holden & A. Ruth Holden, 2621A Proctor Lane, Baltimore, MD 21234, Petitioners.

PETITIONER(S) SIGN-IN SHEET PLEASE PRINT CLEARLY KUAL HOLDEN 2621 A. Proctor XANE 21234

Printed with Soybean Ink on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Director DATE: June 28, 1993 Zoning Administration and Development Management

FROM: Pat Keller, Deputy Director Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s): Item Nos. 420, 435, 441, 443, 444, 445, 446, 447, 448, 457, 458, 459 and 461.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

435.ZAC/ZAC1

